THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22190 OF 2006

DATED: 3rd NOVEMBER, 2006.

Between :

M/s. Sri Yogeshwara Industries, rep. by
Its Managing Partner Goli Srinivas … Petitioner

And

1. The Authorised Officer, State Bank of Hyderabad, Dubba (New Gunj) Branch, Hyderabad and 3 others. .. Respondents

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WRIT PETITION NO.22190 OF 2006

ORDER :

Heard the learned Counsel for the petitioner.

As can be seen from the affidavit filed in support of the writ petition, the petitioner had availed a loan of Rs.20 lakhs from the 2nd respondent by creating a mortgage in respect of House bearing No.6-12-1141/A, Namdevwada, Nizamabad District. That apart, the petitioner had also availed a Cash Credit of Rs.40 lakhs from the 2nd respondent which was subsequently extended upto Rs.50 lakhs. Though the petitioner claims that substantial amounts were repaid, the fact remains that the loan account of the petitioner was classified as Non-Performing Asset (NPA) in the month of June, 2005. Thereafter, having invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') the 2nd respondent issued a notice under Section 13 (2) of the Act on 14-7-2005 followed by possession notice under Section 13 (4) of the Act. Subsequently, by notice dated 27-10-2005 the secured assets were proposed to be sold on 17-1-2006 by public auction. Aggrieved by the said proceedings, the petitioner filed an Application (S.A.No.158 of 2005) before the Debts Recovery Tribunal, A.P., Hyderabad, under Section 17 of the Act. The Tribunal, after considering all the aspects in detail and after hearing the petitioner, dismissed S.A.No.158 of 2005 by order dated 31-3-2006 holding that the respondent Bank has taken proper steps under Sections 13 (2) and

13 (4) of the Act.

It is to be noted that by that time the secured assets were already sold on 17-1-2006 pursuant to the sale notice and the Tribunal held that the sale was also validly conducted. Against the said order, though the petitioner preferred an appeal before the Debts Recovery Appellate Tribunal, Chennai, the same was rejected by order dated 30-5-2006 for non-payment of the court fee. Thus, the order of the Tribunal under Section 17 of the Act, dated 31-3-2006 has become final.

While so, the present writ petition has been filed seeking a Writ of Mandamus declaring the sale proceedings held on 17-1-2006 as arbitrary and illegal and to set aside the same alleging that the respondents 1 and 2 at the instances of the respondents 3 and 4 had deliberately sold the properties in question to a lesser consideration. It is further contended that the respondents 1 and 2 did not assess the correct value of the property before conducting the sale and they also failed to consider the objections raised by the petitioner on the date of the sale itself. It is also pleaded by the petitioner that since the sale in favour of the respondents 3 and 4 has not yet been confirmed, the sale may be set aside by permitting the petitioner to pay the amounts due as per the sale proceedings.

Having heard the learned Counsel for the petitioner in detail and having regard to the admitted facts as reflected from the material on record, I do not find any justifiable reason to entertain this writ petition.

As noted above, the sale of the secured assets conducted on 17-1-2006 was already upheld by the Debts Recovery Tribunal while dismissing the Application of the petitioner under Section 17 of the Act. The appeal against the said order was dismissed by the Appellate Tribunal and thus the order of the Tribunal under Section 17 of the Act has become final. The relief sought in this writ petition is nothing but an attempt to circumvent the above said order which attained finality.

The Writ Petition is misconceived and accordingly the same is dismissed. No costs.

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G. ROHINI, J.

Dt. 3-11-2006

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